ORDINANCE NO. 12

SERIES 1981

106923

AN ORDINANCE AMENDING ORDINANCE NO. 15, SERIES 1974

AN ORDINANCE DEFINING AND REGULATING GAMBLING IN THE CITY OF ELGIN; PROVIDING FOR LICENSING AND FEES; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE CITY OF ELGIN does ordain as follows:

Section 1: PROHIBITION.

(1) No person shall participate in, operate or assist in operating any gambling game or activity, including a lottery. No person shall have in his possession any property, instrument or device designed or adapted for use in any type of gambling activity. Any such property, instrument or device is a nuisance and may be summarily seized by any police officer. Property so seized shall be placed in the custody of the Chief of Police of the City of Elgin. Upon conviction of the person owning or controlling such property for a violation of this section the Municipal Judge shall order such property confiscated and destroyed.

Section 2: DEFINITIONS.

(1) The term "gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. "Gambling" does not include the following:

(a) Bona fide business transactions valid under the laws of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to, contracts of indemnity or guarantee, and life, health or accident insurance.

(b) Engaging in contest of chance under the following

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conditions: The contest is played for some token other than money; an individual contestant may not purchase more than $10.00 worth of tokens for use in the contest during any twenty-four (24) hour period; the tokens may be exchanged only for property other than money; except where the tokens are exchanged for a beverage or merchandise to be consumed on the premises, the tokens are not redeemable on the premises where the contest is conducted or within fifty (50) miles thereof; and, except for charitable organizations, no person who conducts a contest as owner, agent or employee profits in any manner from operation of the contest. "Charitable organization" means any person organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other non-profit purposes. The fact that contributions to an organization profiting from the contest do not qualify for charitable deductions for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable organization.

(c) Social Games. The term "Social Games" means:

1. A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and

2. A game, other than a lottery, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

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Section 3: LICENSE REQUIRED FOR SOCIAL GAMES.

(1) From and after this date, it shall be unlawful for any private business, private club or place of public accommodation to maintain or conduct, or cause to be engaged in, carried on, maintained or conducted, any social game in the City of Elgin without having a valid license from said City. Licenses shall be granted only to persons of ascertained good moral character and upon approval of the City Council. Holders of existing licenses must make application under this ordinance within thirty (30) days of its passage.

Section 4: APPLICATION FOR LICENSE.

(1) Applications for license issued hereunder shall be made upon blank forms prepared and made available by the Chief of Police and shall state:

(a) The full name, age, residence, present and previous occupations of all persons financially interested in the business.

(b) The past criminal record, if any, of all persons who may have interest in the business.

(c) A specific description of the location of the principal place of business of the applicant.

(d) Such other information as the Chief of Police shall find reasonably necessary to effectuate the general purpose of this ordinance and to make a fair determination of whether the terms hereof have been complied with.

(2) The application required shall be accompanied by an application fee of $50.00.

(3) Within fifteen (15) days after receipt of any application as provided for herein, the Chief of Police shall cause an investigation to be made of the applicant and his proposed operation.

Section 5: STANDARDS FOR ISSUANCE OF LICENSE.

(1) The Chief of Police shall investigate and determine if the character, competency and integrity of the applicant are such as to

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command the confidence of the public, and if the applicant has ever been convicted of any felony or misdemeanor involving moral turpitude. Upon the determination of the above matters by the Chief of Police he shall thereupon submit a written report of his findings to the City Council of the City and recommend that the license be issued or denied.

Section 6: NOTICE OF DENIAL OR REVOCATION.

(1) The Chief of Police shall act upon the application for license within thirty (30) days after the filing thereof. If the Chief of Police disapproves the application, he shall mail to the applicant forthwith a notice of his action setting forth the reasons for his adverse recommendation to the City Council. Any person aggrieved shall have the right to appeal the recommendation of the Chief of Police as to denial or revocation to the City Council. The appeal shall be taken within ten (10) days after receipt of notice, and shall be made by written notice to the Council that the aggrieved appeals the denial or revocation of said license. The City Council shall act upon the appeal within forty (40) days after receipt of said notice of appeal, and its action shall be final.

Section 7: ANNUAL LICENSE FEE.

(1) A license shall be issued to each successful applicant upon payment of a license fee of $ 180.00 ; except, however, a non-profit society, club or fraternal organization having adopted by-laws and duly elected directors and members may be granted a license for an annual fee of $ 180.00 , when it appears that the social games are for the exclusive use of members of the society, club or fraternal organization and no charge is made for participation. The society, club or fraternal organization shall have been in continuous existence, actively conducting its affairs in the City of Elgin for a period of two (2) years immediately preceding application for a license, and only if the conduct of the social games is not the

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primary reason for the existence of the society, club or fraternal organization.

Section 8: CONDITIONS OF LICENSING.

(1) Transferability. Licenses issued hereunder shall not be transferable.

(2) Revocation and Suspension. Licenses issued hereunder shall be subject to revocation or suspension by the City Council for violation of any of the provisions of this ordinance or misconduct by the licensee or his employees, after reasonable notice and an opportunity to be heard has been given the licensee. The Chief of Police shall give such notice.

(3) Renewal of Licenses. The City Recorder shall issue renewal licenses to all licensees whose licenses have have not been suspended at the time said licenses have expired, upon payment of the annual license fee.

(4) Term of License. All licenses issued hereunder shall be for a period of one year.

(5) Supervision. Each licensee shall have a person whose duty shall be to supervise the social games and see to it that they are played strictly in accordance with this ordinance and within the provisions of the Oregon Revised Statutes.

(6) Time Periods. No licensee shall conduct social games between the hours of 3:00 o'clock, a.m., and 7:00 o'clock, a.m., of any day.

(7) Police Inspection. Premises on which social games are operated shall be open to police inspection during all hours of operation.

(8) Participation by Licensee. No licensee shall participate in any social game nor procure players, back, farm out, assign or sublet any social game lawfully permitted under this ordinance on any premises in which said licensee has any interest or works.

(9) Age Limits. No person under the age of 18 shall be per-

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mitted to participate in any social game or to enter or remain in any room in which such game is being played.

Section 9: REGULATIONS BY CHIEF OF POLICE.

(1) The Chief of Police shall have the authority to enact and enforce reasonable rules and regulations for the operation of social games in the interest of public safety, morals and welfare and to effectuate the general purpose of this ordinance.

Section 10: SUBSEQUENT REVOCATION.

(1) If at any time new facts arise or become known to the City Council which would be sufficient to warrant refusal or withholding of a license under the terms of this ordinance, the City Council shall notify the licensee through the Chief of Police of such facts and further inform the licensee that unless the same are satisfactorily explained and this ordinance forthwith complied with, the license shall be revoked.

Section 11: PENALTIES.

(1) In addition to the suspension or revocation of any license issued hereunder, any person, firm or corporation who violates any provisions of this ordinance or any rule or regulations lawfully promulgated in accordance herewith shall, upon conviction, be fined in an amount not to exceed $300.00

Section 12: SAVINGS CLAUSE.

(1) If any section, sub-section, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance; and it is hereby expressly declared that every other section, sub-section, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid, is valid.

Section 13: REPEAL OF CONFLICTING ORDINANCES.

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(1) All ordinances or parts of ordinances in conflit herewith are hereby repealed.

PASSED and ADOPTED this 8th day of December, 1981, by seven (7)Council persons voting herefor.

APPROVED this 8th day of December, 1981.

106923

INDEXED

Russell Hoy
Mayor

ATTEST:
CITY OF LLGIN CORPORATE SEAL STATE OF OREGON
Dorothy Hulse
City Recorder

STATE OF OREGON }
County of Union }

I certify that the within instrument of writing was received for record on the 18th day of NOV. 1982 at 8:30 o'clock A. M., and recorded on page ____ in book ____ Record of Deeds of said County.

SHIRLEY L. BOE County Clerk
By Barbara C. Baker Deputy